

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

UNITED STATES OF AMERICA,
Plaintiff,
v.
RILEY MICHAEL DUNN,
Defendant.

CASE NO. CR02-229-TSZ

PROPOSED FINDINGS OF FACT
AND DETERMINATION AS TO
ALLEGED VIOLATIONS OF
SUPERVISED RELEASE

INTRODUCTION

I conducted a hearing on alleged violations of supervised release in this case on December 27, 2005. The United States was represented by Sarah Vogel, and defendant was represented by Michael Nance. The proceedings were recorded on cassette tape.

CONVICTION AND SENTENCE

Defendant had been convicted on or about November 22, 2002 on a charge of conspiracy to distribute cocaine. The Hon. Thomas S. Zilly of this court sentenced defendant to thirty months of imprisonment, followed by five years of supervised release.

PRIOR ALLEGATION OF VIOLATIONS

In April of 2005, the court added a requirement for twenty hours of community service, after defendant failed to report for urinalysis testing on two occasions. In May of 2005, the probation officer reported defendant had used cocaine. With the court's approval, the probation officer reprimanded defendant and imposed further testing requirements. In June of 2005, defendant tested positive for cocaine again. The court ordered 90 days home confinement with electronic monitoring.

PRESENTLY ALLEGED VIOLATIONS AND DEFENDANT'S ADMISSIONS

In an application dated December 14, 2005, USPO Christopher Luscher alleged that defendant violated the conditions of supervised release in four respects:

- (1) Use of cocaine on or about November 8, 2005;
- (2) Leaving the judicial district on or about November 8, 2005 (travel to and from Las Vegas) without permission of the court or probation officer;
- (3) Failing to answer truthfully all inquiries by the probation officer, and failing to follow his instructions, in November and December of 2005; and
- (4) Failing to submit written monthly report to the probation officer during the first five days of November, 2005.

At his initial appearance, defendant denied each of these charges, and the matter was set for an evidentiary hearing on December 27, 2005. At that hearing, I again advised defendant as to his constitutional rights, the nature of these charges, his right to an evidentiary hearing, and the maximum penalties if the court found he had violated conditions as alleged. Defendant then admitted each of the four alleged violations, waived any hearing as to whether they occurred, and consented to having the matter set for a disposition hearing before Judge Zilly.

RECOMMENDED FINDINGS AND CONCLUSIONS

Based upon the foregoing, I recommend the court find that defendant has violated the conditions of his supervised release in the four respects alleged above, and conduct a disposition hearing. That hearing has been set for January 21, 2006 at 11:00 a.m.

Defendant has been detained pending a final determination by the court.

DATED this 27th day of December, 2005.

s/ John L. Weinberg
United States Magistrate Judge

cc: Sentencing Judge : Hon. Thomas S. Zilly
Assistant U.S. Attorney : Sarah Vogel
Defense Attorney : Michael Nance
U. S. Probation Officer : Christopher Luscher